

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

oab-csd-mar21item01

# California State Board of Education March 2021 Agenda Item #07

## Subject

Consideration of a Retroactive Request for Determination of Funding as Required for Nonclassroom-Based Charter Schools Pursuant to California *Education Code* sections 47612.5 and 47634.2, and Associated *California Code of Regulations*, Title 5.

## Type of Action

Action, Information

## Summary of the Issue

California *Education Code* sections 47612.5 and 47634.2 established the eligibility requirements for apportionment funding for charter schools that offer nonclassroom-based (NCB) instruction. The statutes specify that a charter school may receive apportionment funding for NCB instruction only if a determination of funding is made by the State Board of Education (SBE). The California Department of Education (CDE) reviews a charter school’s determination of funding request and presents it for consideration by the Advisory Commission on Charter Schools (ACCS), pursuant to relevant *California Code of Regulations*, Title 5 (5 *CCR*).

Pursuant to 5 *CCR* Section 11963.6(c), any determination of funding request approved by the SBE for an existing NCB charter school must be submitted by February 1 and be prospective (i.e., submitted during the fiscal year prior to the year the funding determination will be effective). Retroactive determination of funding requests refer to requests that are submitted after the regulatory deadlines and that require an approved SBE waiver to waive the aforementioned sections of 5 *CCR*.

Whitmore Union Elementary School District submitted a waiver request (waiver number 5-9-2020) to the SBE on behalf of New Day Academy (charter #1920) to receive approval to submit a retroactive funding determination request. The waiver was initially scheduled to be heard by the SBE at its January 13–14, 2021, meeting; however, it was pulled from the agenda as additional clarifying information was needed from the district regarding the waiver. The CDE has received all clarifying information and will present the waiver to the SBE at its March 17–18, 2021, meeting prior to this item. The school’s funding determination request may be acted on by the SBE if the SBE first approves the waiver at the same meeting.

## Recommendation

The CDE recommends that the SBE approve the determination of funding request at the percentage and for the time period as specified for New Day Academy in Attachment 1.

The CDE notes that its funding determination recommendation as well as the recommendation moved by the ACCS are contingent upon the SBE approving waiver number 5-9-2020 at its March 17–18, 2021, meeting.

## Advisory Commission on Charter Schools Recommendation

At its February 11, 2021, meeting, the ACCS moved to approve the CDE recommendation that the SBE approve the determination of funding request at the percentage and for the time period as specified in Attachment 1. The motion passed by a vote of eight to one.

The notice for the February 11, 2021, ACCS meeting and the school’s funding determination request form are located on the SBE February 2021 ACCS Meeting Agenda web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice021121.asp>.

## Brief History of Key Issues

NCB charter schools must obtain an approved determination of funding from the SBE in order to establish eligibility to receive apportionment funding for NCB instruction. Pursuant to 5 *CCR* Section 11963.4(a), an NCB charter school may qualify for either 70 percent, 85 percent, or 100 percent full funding, or may be denied. To qualify for a recommendation of 100 percent funding to the SBE, an NCB charter school must meet the following criteria:

* Spend at least 40 percent of the school’s public revenues on salaries and benefits for all employees who possess a valid teaching certificate.
* Spend at least 80 percent of all revenues on instruction and related services.
* Maintain a ratio of average daily attendance (ADA) for independent study pupils to full-time certificated employees that does not exceed a pupil-teacher ratio (PTR) of 25:1 or the PTR of the largest unified school district in the county or counties in which the charter school operates.

Pursuant to 5 *CCR* Section 11963.6(c), any determination of funding request approved by the SBE for an existing NCB charter school must be prospective (not for the current year) and submitted by February 1. The CDE received a completed determination of funding request from New Day Academy after the required February 1, 2020, deadline, thereby making the request retroactive, not prospective. The school’s authorizer, Whitmore Union Elementary School District, submitted a waiver request to the SBE on the school’s behalf requesting approval to submit a funding determination request after the regulatory deadline. The CDE will present the waiver to the SBE at its March 17–18, 2021, meeting prior to this item. The school’s funding determination request may be acted on by the SBE if the SBE first approves the waiver at the same meeting.

For an existing NCB charter school, 5 *CCR* Section 11963.6(c) specifies that a determination of funding shall be for a minimum time period of two years and a maximum time period of five years.

## Summary of Previous State Board of Education Discussion and Action

The SBE is scheduled to hear waiver number 5-9-2020 at its March 17–18, 2021, meeting, prior to this item. Waiver number 5-9-2020 consists of a request to waive specific portions of 5 *CCR* Section 11963.6(c), which would allow New Day Academy to submit a determination of funding request after the regulatory deadline. Without the approval of that waiver, this item may not be acted on.

The SBE is responsible for approving determination of funding requests to establish eligibility for apportionment funding for charter schools that offer NCB instruction. The CDE notes that this type of request is a recurring action item for the SBE.

## Fiscal Analysis

If approved, New Day Academy would receive apportionment funding for its NCB ADA under the Local Control Funding Formula model.

## California Department of Education Staff Review

A direct link to the school’s funding determination request is provided below. The request is also available under Agenda Item 2 of the SBE February 2021 ACCS Meeting Agenda web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice021121.asp>.

* Determination of Funding Request for New Day Academy, Charter #1920 (<https://www.cde.ca.gov/be/cc/cs/documents/accs-feb21item02a2.pdf>)

## Attachment

* **Attachment 1:** Determination of Funding Recommendation for a Nonclassroom-Based Charter School (1 Page)